



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/974,659

10/09/2001

Takuji Kurozumi

380153-70

7506

25204

7590

02/12/2003

OPPENHEIMER WOLFF & DONNELLY LLP  
840 NEWPORT CENTER DRIVE  
SUITE 700  
NEWPORT BEACH, CA 92660

EXAMINER

DAVIS, WILLIE L

ART UNIT

PAPER NUMBER

2877

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/974,659

Applicant(s)

KUROZUMI ET AL.

Examiner

Willie L. Davis

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 5-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Igushi(U.S. Patent 6061131). Igushi discloses a device for particle size distribution measurement comprising a laser light source, light shutter, beam expander ,material sample, condensor lens, photodetector capable of receiving scattered and transmitted light, a multiplexer in communication with a photodetector and optical axis adjustment mechanism. Igushi also discloses automatic movement of a light source and photodetector to align them on an optical axis (see Abstract).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6061131 to Igushi in view of Hirleman, Jr(5007737).

As to claim 2, Igushi discloses a device for particle size distribution measurement comprising a laser light source, light shutter, beam expander, material sample, condensor lens, photodetector, a multiplexer and optical axis adjustment mechanism. Igushi fails to show a mirror. Hirleman, Jr discloses a mirror positioned after the light source in a partical size distribution measurement device. It would have been obvious to one of ordinary skill in the art to combine the teaching of Igushi with the teaching of Hirleman to reflect light to the detector at a desired angle.

As to claim 3, Igushi discloses everything claimed, as applied above, except the use of prisms in a particle size distribution measurement device. Sevvick-Muraca et al discloses the use of prisms(see U. S. Patent 5818583, column 6, lines 35-40) in a particle size distribution measurement system. It would have been obvious to one of ordinary skill in the art to combine the teaching of Igushi with the teaching of Sevvick-Muraca et al to combine and direct light beams to the detector.

As to claim 4, Igushi discloses everything claimed, as applied above, except the use of a X-Y optical positioning device. Hirleman, Jr. discloses a X-Y optical positioning device in a partical size distribution measurement device. It would have been obvious to one of ordinary skill in the art to combine the teaching of Igushis with the teaching of Hirleman, Jr to control the positioning of the photodetector array.

Art Unit: 2877

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie L. Davis whose telephone number is (703)305-5169. The examiner can normally be reached on 9:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on (703)308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7722 for regular communications and (703)308-0956 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

*Willie Davis*

\*\*\*

January 29, 2003

*Frank G. Font*

Frank G. Font  
Supervisory Patent Examiner  
Technology Center 2800